

# HOUSE BILL No. 1602

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-48.

**Synopsis:** Methamphetamine. Makes: (1) dealing in methamphetamine a Level 4 felony instead of a Level 5 felony; and (2) possession of methamphetamine a Level 5 felony instead of a Level 6 felony; if the person who committed the felony has a prior conviction for dealing in certain controlled substances, the person committed the felony while in possession of a firearm, the person committed the felony in, on, or within 1,000 feet of school property or a public park while a person under 18 years of age was reasonably expected to be present, the person who committed the felony delivered or financed the delivery of the drug to a person under 18 years of age and at least three years junior to the person, the person who committed the felony manufactured or financed the manufacture of the drug, or the person committed the offense in the physical presence of a child less than 18 years of age, knowing that the child was present and might be able to see or hear the offense. Makes materials, compounds, mixtures, and preparations that contain ephedrine or pseudoephedrine schedule IV controlled substances subject to being dispensed only by a prescription until July 1, 2018. Provides that a drug containing ephedrine or pseudoephedrine may be sold by a pharmacy or NPLEx retailer to an individual without a prescription during any 365 day period if the individual has obtained drugs that contain not more than 9.6 grams of ephedrine or pseudoephedrine, or both, during the 365 day period. Prohibits a person from purchasing drugs containing more than 9.6 grams of ephedrine or pseudoephedrine, or both, in a 365 day period without a prescription. Provides that, after June 30, 2016, a pharmacy or NPLEx retailer may not sell a drug that contains the active  
(Continued next page)

**Effective:** July 1, 2015.

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**Smaltz, Arnold L, McNamara, Ober**

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January 20, 2015, read first time and referred to Committee on Courts and Criminal Code.

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ingredient of ephedrine, pseudoephedrine, or both, under this section unless the individual package that contains the drug has a unique serial number or other identifying code printed on the individual package by the manufacturer of the individual package. Makes possessing paraphernalia a Level 6 felony instead of a Class A misdemeanor if the person who committed the offense was in possession of methamphetamine or a chemical reagent or precursor while committing the offense. Provides that a person who: (1) has been convicted of possessing paraphernalia as a Level 6 felony because the person was in possession of methamphetamine or a chemical reagent or precursor while committing the offense; and (2) not later than seven years from the date the person was sentenced for the offense; knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Level 6 felony. Makes conforming amendments.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1602

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 35-48-1-16.5, AS AMENDED BY P.L.168-2014,  
2       SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 16.5. "Enhancing circumstance" means one (1) or  
4       more of the following:

5       (1) The person has a prior conviction, in any jurisdiction, for  
6       dealing in a controlled substance that is not marijuana, hashish,  
7       hash oil, salvia divinorum, or a synthetic drug, including an  
8       attempt or conspiracy to commit the offense.

9       (2) The person committed the offense while in possession of a  
10      firearm.

11      (3) The person committed the offense:

12          (A) on a school bus; or

13          (B) in, on, or within five hundred (500) feet of:

14              (i) school property while a person under eighteen (18) years



of age was reasonably expected to be present; or  
(ii) a public park while a person under eighteen (18) years  
of age was reasonably expected to be present;

**and the drug involved was not methamphetamine.**

**(4) The person committed the offense in, on, or within one  
thousand (1,000) feet of:**

**(A) school property while a person under eighteen (18)  
years of age was reasonably expected to be present; or**

**(B) a public park while a person under eighteen (18) years  
of age was reasonably expected to be present;**

**and the drug involved was methamphetamine.**

~~(4)~~ **(5)** The person delivered or financed the delivery of the drug  
to a person under eighteen (18) years of age at least three (3)  
years junior to the person.

~~(5)~~ **(6)** The person manufactured or financed the manufacture of  
the drug.

~~(6)~~ **(7)** The person committed the offense in the physical presence  
of a child less than eighteen (18) years of age, knowing that the  
child was present and might be able to see or hear the offense.

SECTION 2. IC 35-48-2-10, AS AMENDED BY P.L.283-2013,  
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2015]: Sec. 10. (a) The controlled substances listed in this  
section are included in schedule IV.

(b) Narcotic drugs. Unless specifically excepted in a rule adopted  
by the board or unless listed in another schedule, any material,  
compound, mixture, or preparation containing any of the following  
narcotic drugs, or their salts calculated as the free anhydrous base or  
alkaloid, in the following limited quantities:

(1) Not more than 1 milligram of difenoxin (9618) and not less  
than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha- (+)-4-dimethylamino-1,2-  
diphenyl-3-methyl-2-propionoxybutane (9278).

(c) Depressants. Unless specifically excepted in a rule adopted by  
the board or unless listed in another schedule, any material, compound,  
mixture, or preparation which contains any quantity of the following  
substances, including its salts, isomers, and salts of isomers whenever  
the existence of such salts, isomers, and salts of isomers is possible  
within the specific chemical designation:

Alprazolam (2882).

Barbital (2145).

Bromazepam (2748).

Camazepam (2749).



1	Carisoprodol.
2	Chloral betaine (2460).
3	Chloral hydrate (2465).
4	Chlordiazepoxide (2744).
5	Clobazam (2751).
6	Clonazepam (2737).
7	Clorazepate (2768).
8	Clotiazepam (2752).
9	Cloxazolam (2753).
10	Delorazepam (2754).
11	Diazepam (2765).
12	Dichloralphenazone (2467).
13	Estazolam (2756).
14	Ethchlorvynol (2540).
15	Ethinamate (2545).
16	Ethyl loflazepate (2758).
17	Fludiazepam (2759).
18	Flunitrazepam (2763).
19	Flurazepam (2767).
20	Fospropofol.
21	Halazepam (2762).
22	Haloxazolam (2771).
23	Ketazolam (2772).
24	Loprazolam (2773).
25	Lorazepam (2885).
26	Lormetazepam (2774).
27	Mebutamate (2800).
28	Medazepam (2836).
29	Meprobamate (2820).
30	Methohexital (2264).
31	Methylphenobarbital (mephobarbital) (2250).
32	Midazolam (2884).
33	Nimetazepam (2837).
34	Nitrazepam (2834).
35	Nordiazepam (2838).
36	Oxazepam (2835).
37	Oxazolam (2839).
38	Paraldehyde (2585).
39	Petrichloral (2591).
40	Phenobarbital (2285).
41	Pinazepam (2883).
42	Prazepam (2764).



1 Quazepam (2881).  
 2 Temazepam (2925).  
 3 Tetrazepam (2886).  
 4 Triazolam (2887).  
 5 Zaleplon (2781).  
 6 Zolpidem (Ambien) (2783).  
 7 Zopiclone (2784).

8 (d) Fenfluramine. Any material, compound, mixture, or preparation  
 9 which contains any quantity of the following substances, including its  
 10 salts, isomers (whether optical, position, or geometric), and salts of  
 11 such isomers, whenever the existence of such salts, isomers, and salts  
 12 of isomers is possible.

13 Fenfluramine (1670).

14 (e) Stimulants. Unless specifically excepted in a rule adopted by the  
 15 board or unless listed in another schedule, any material, compound,  
 16 mixture, or preparation which contains any quantity of the following  
 17 substances having a stimulant effect on the central nervous system,  
 18 including its salts, isomers (whether optical, position, or geometric),  
 19 and salts of such isomers whenever the existence of such salts, isomers,  
 20 and salts of isomers is possible within the specific chemical  
 21 designation:

22 Cathine ((+)-norpseudoephedrine) (1230).

23 Diethylpropion (1610).

24 Fencamfamin (1760).

25 Fenproporex (1575).

26 Mazindol (1605).

27 Mefenorex (1580).

28 Modafinil (1680).

29 Phentermine (1640).

30 Pemoline (including organometallic complexes and chelates  
31 thereof) (1530).

32 Pipradrol (1750).

33 Sibutramine (1675).

34 SPA ((-)-1-dimethylamino-1,2-diphenylethane (1635).

35 (f) Other substances. Unless specifically excepted or unless listed  
 36 in another schedule, any material, compound, mixture, or preparation  
 37 which contains any quantity of the following substances including its  
 38 salts:

39 Butorphanol (including its optical isomers) (9720).

40 Pentazocine (9709).

41 (g) The board may except by rule any compound, mixture, or  
 42 preparation containing any depressant substance listed in subsection



(b), (c), (d), (e), or (f) from the application of any part of this article if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

**(h) A material, compound, mixture, or preparation that contains a quantity of any of the following substances, pure or adulterated:**

**(1) Ephedrine.**

**(2) Pseudoephedrine.**

**This subsection expires July 1, 2018.**

SECTION 3. IC 35-48-3-9, AS AMENDED BY P.L.114-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written or electronic prescription of a practitioner.

(b) In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 7 of this chapter. No prescription for a schedule II substance may be refilled.

(c) Except:

**(1)** for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner, or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user; **or**

**(2) as provided in section 10.5 of this chapter until July 1, 2018;**

a controlled substance included in schedule III or IV which is a prescription drug as determined under IC 16-42-19, shall not be dispensed without a written, electronic, or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner. Prescriptions for schedule III, IV, and V controlled substances may be transmitted by facsimile from the practitioner or the agent of the practitioner to a pharmacy. The facsimile prescription is equivalent to an original prescription to the



1 extent permitted under federal law.

2 (d) A controlled substance included in schedule V shall not be  
3 distributed or dispensed other than for a medical purpose.

4 (e) Prescriptions for schedule V controlled substances may be  
5 transmitted by an electronic prescription from the practitioner or the  
6 agent of the practitioner to a pharmacy.

7 SECTION 4. IC 35-48-3-10.5 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2015]: **Sec. 10.5. (a) A drug containing**  
10 **ephedrine or pseudoephedrine, a schedule IV controlled substance,**  
11 **may be sold by a pharmacy or NPLeX retailer to an individual:**

12 **(1) under IC 35-48-4-14.7;**

13 **(2) without a written, an electronic, or an oral prescription of**  
14 **a practitioner; and**

15 **(3) during any three hundred sixty-five (365) day period;**  
16 **if the individual has obtained drugs that contain not more than**  
17 **nine and six-tenths (9.6) grams of ephedrine or pseudoephedrine,**  
18 **or both, during the three hundred sixty-five (365) day period.**

19 **(b) If an individual has obtained drugs that contain more than**  
20 **nine and six-tenths (9.6) grams of ephedrine or pseudoephedrine,**  
21 **or both, during the three hundred sixty-five (365) day period**  
22 **described in subsection (a), the individual may not obtain a drug**  
23 **that contains any additional ephedrine or pseudoephedrine during**  
24 **the three hundred sixty-five (365) day period except:**

25 **(1) for dosages medically required for a period of not more**  
26 **than forty-eight (48) hours that are dispensed by or on the**  
27 **direction of a practitioner, or medication dispensed directly**  
28 **by a practitioner, other than a pharmacy, to an ultimate user;**  
29 **or**

30 **(2) with a written, an electronic, or an oral prescription of a**  
31 **practitioner;**

32 **as provided under section 9(c) of this chapter.**

33 **(c) This section expires July 1, 2018.**

34 SECTION 5. IC 35-48-4-1.1, AS AMENDED BY P.L.226-2014(ts),  
35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2015]: Sec. 1.1. (a) A person who:

37 (1) knowingly or intentionally:

38 (A) manufactures;

39 (B) finances the manufacture of;

40 (C) delivers; or

41 (D) finances the delivery of;

42 methamphetamine, pure or adulterated; or





(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

methamphetamine, pure or adulterated;

commits dealing in methamphetamine, a Level 5 felony, except as provided in subsections (b) through (e).

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

(c) The offense is a Level 4 felony if:

- (1) the amount of the drug involved is at least one (1) gram but less than five (5) grams; or
- (2) ~~the amount of the drug involved is less than one (1) gram and~~ an enhancing circumstance applies.

(d) The offense is a Level 3 felony if:

- (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
- (2) the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies.

(e) The offense is a Level 2 felony if:

- (1) the amount of the drug involved is at least ten (10) grams;
- (2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies; or
- (3) the person is manufacturing the drug and the manufacture results in an explosion causing serious bodily injury to a person other than the manufacturer.

SECTION 6. IC 35-48-4-6.1, AS AMENDED BY P.L.226-2014(ts), SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Level 6 felony, except as provided in subsections (b) through (d).

(b) The offense is a Level 5 felony if:

- (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
- (2) ~~the amount of the drug involved is less than five (5) grams and~~ an enhancing circumstance applies.



(c) The offense is a Level 4 felony if:

- (1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or
- (2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies.

(d) The offense is a Level 3 felony if:

- (1) the amount of the drug involved is at least twenty-eight (28) grams; or
- (2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

SECTION 7. IC 35-48-4-7, AS AMENDED BY P.L.158-2013, SECTION 633, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, except marijuana, hashish, salvia, or a synthetic cannabinoid, commits possession of a controlled substance, a Class A misdemeanor, except as provided in subsection (b).

(b) **Except as provided in section 14.5(b) of this chapter until July 1, 2018**, the offense is a Level 6 felony if the person commits the offense and an enhancing circumstance applies.

(c) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally obtains:

- (1) more than four (4) ounces of schedule V controlled substances containing codeine in any given forty-eight (48) hour period unless pursuant to a prescription;
- (2) a schedule V controlled substance pursuant to written or verbal misrepresentation; or
- (3) possession of a schedule V controlled substance other than by means of a prescription or by means of signing an exempt narcotic register maintained by a pharmacy licensed by the Indiana state board of pharmacy;

commits a Class A misdemeanor.

SECTION 8. IC 35-48-4-8.3, AS AMENDED BY P.L.158-2013, SECTION 635, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:

- (1) introducing into the person's body a controlled substance;



(2) testing the strength, effectiveness, or purity of a controlled substance; or  
 (3) enhancing the effect of a controlled substance;  
 in violation of this chapter commits a Class A infraction for possessing paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if:

**(1) the person committed the offense while in possession of:**

**(A) methamphetamine; or**

**(B) a chemical reagent or precursor (as defined in section 14.5(a) of this chapter); or**

**(2) the person has a prior unrelated judgment or conviction under this section.**

SECTION 9. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.
- (19) Benzyl cyanide.
- (20) Phenylacetic acid and its esters or salts.
- (21) Piperidine and its salts.



- 1 (22) Methylamine and its salts.
- 2 (23) Isosafrole.
- 3 (24) Safrole.
- 4 (25) Piperonal.
- 5 (26) Hydriodic acid.
- 6 (27) Benzaldehyde.
- 7 (28) Nitroethane.
- 8 (29) Gamma-butyrolactone.
- 9 (30) White phosphorus.
- 10 (31) Hypophosphorous acid and its salts.
- 11 (32) Acetic anhydride.
- 12 (33) Benzyl chloride.
- 13 (34) Ammonium nitrate.
- 14 (35) Ammonium sulfate.
- 15 (36) Hydrogen peroxide.
- 16 (37) Thionyl chloride.
- 17 (38) Ethyl acetate.
- 18 (39) Pseudoephedrine hydrochloride.
- 19 (b) A person who possesses more than ten (10) grams of ephedrine,
- 20 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
- 21 commits a Level 6 felony. However, the offense is a Level 5 felony if
- 22 the person possessed:
- 23 (1) a firearm while possessing more than ten (10) grams of
- 24 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
- 25 adulterated; or
- 26 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
- 27 phenylpropanolamine, pure or adulterated, in, on, or within five
- 28 hundred (500) feet of:
- 29 (A) school property while a person under eighteen (18) years
- 30 of age was reasonably expected to be present; or
- 31 (B) a public park while a person under eighteen (18) years of
- 32 age was reasonably expected to be present.
- 33 (c) A person who possesses anhydrous ammonia or ammonia
- 34 solution (as defined in IC 22-11-20-1) with the intent to manufacture
- 35 methamphetamine or amphetamine, schedule II controlled substances
- 36 under IC 35-48-2-6, commits a Level 6 felony. However, the offense
- 37 is a Level 5 felony if the person possessed:
- 38 (1) a firearm while possessing anhydrous ammonia or ammonia
- 39 solution (as defined in IC 22-11-20-1) with intent to manufacture
- 40 methamphetamine or amphetamine, schedule II controlled
- 41 substances under IC 35-48-2-6; or
- 42 (2) anhydrous ammonia or ammonia solution (as defined in



IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within five hundred (500) feet of:

- (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
- (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

(d) Subsection (b) does not apply to a:

- (1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
- (2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

- (A) the location in which the substance is stored;
- (B) the possession of the substance in a variety of:
  - (i) strengths;
  - (ii) brands; or
  - (iii) types; or
- (C) the possession of the substance:
  - (i) with different expiration dates; or
  - (ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a Level 6 felony.

(f) An offense under subsection (e) is a Level 5 felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or
- (2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within five hundred (500) feet of:

- (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
- (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture



a controlled substance commits unlawful sale of a precursor, a Level 6 felony. However, the offense is a Level 5 felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

(h) This subsection does not apply to a drug containing ephedrine, pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:

(1) has been convicted of:

(A) dealing in methamphetamine (IC 35-48-4-1.1);

(B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));

(C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (subsection (c));

(D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); ~~or~~

(E) unlawful sale of a precursor (subsection (g)); ~~and or~~

**(F) possessing paraphernalia as a Level 6 felony under section 8.3(b)(1) of this chapter; and**

(2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Level 6 felony.

SECTION 10. IC 35-48-4-14.7, AS AMENDED BY P.L.193-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (g).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or



- 1 manufacturer, the person is required to report a suspicious order  
 2 to the state police department in accordance with subsection (g).  
 3 (b) The following definitions apply throughout this section:  
 4 (1) "Constant video monitoring" means the surveillance by an  
 5 automated camera that:  
 6 (A) records at least one (1) photograph or digital image every  
 7 ten (10) seconds;  
 8 (B) retains a photograph or digital image for at least  
 9 seventy-two (72) hours;  
 10 (C) has sufficient resolution and magnification to permit the  
 11 identification of a person in the area under surveillance; and  
 12 (D) stores a recorded photograph or digital image at a location  
 13 that is immediately accessible to a law enforcement officer.  
 14 (2) "Convenience package" means a package that contains a drug  
 15 having as an active ingredient not more than sixty (60) milligrams  
 16 of ephedrine or pseudoephedrine, or both.  
 17 (3) "Ephedrine" means pure or adulterated ephedrine.  
 18 (4) "Pharmacy or NPLeX retailer" means:  
 19 (A) a pharmacy, as defined in IC 25-26-13-2;  
 20 (B) a retailer containing a pharmacy, as defined in  
 21 IC 25-26-13-2; or  
 22 (C) a retailer that electronically submits the required  
 23 information to the National Precursor Log Exchange (NPLeX)  
 24 administered by the National Association of Drug Diversion  
 25 Investigators (NADDI).  
 26 (5) "Pseudoephedrine" means pure or adulterated  
 27 pseudoephedrine.  
 28 (6) "Retailer" means a grocery store, general merchandise store,  
 29 or other similar establishment. The term does not include a  
 30 pharmacy or NPLeX retailer.  
 31 (7) "Suspicious order" means a sale or transfer of a drug  
 32 containing ephedrine or pseudoephedrine if the sale or transfer:  
 33 (A) is a sale or transfer that the retail distributor, wholesaler,  
 34 or manufacturer is required to report to the United States Drug  
 35 Enforcement Administration;  
 36 (B) appears suspicious to the retail distributor, wholesaler, or  
 37 manufacturer in light of the recommendations contained in  
 38 Appendix A of the report to the United States attorney general  
 39 by the suspicious orders task force under the federal  
 40 Comprehensive Methamphetamine Control Act of 1996; or  
 41 (C) is for cash or a money order in a total amount of at least  
 42 two hundred dollars (\$200).



(8) "Unusual theft" means the theft or unexplained disappearance from a particular pharmacy or NPLeX retailer of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy or NPLeX retailer. Except as provided in subsection (f), a retailer may not sell a drug containing ephedrine or pseudoephedrine.

(d) A pharmacy or NPLeX retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the pharmacy or NPLeX retailer complies with the following conditions:

(1) The pharmacy or NPLeX retailer does not sell the drug to a person less than eighteen (18) years of age.

(2) The pharmacy or NPLeX retailer does not sell drugs containing more than

~~(A) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day;~~

~~(B) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; or~~

~~(C) sixty-one and two-tenths (61.2)~~ **nine and six-tenths (9.6)** grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) The pharmacy or NPLeX retailer requires:

(A) the purchaser to produce a valid government issued photo identification card showing the date of birth of the person;

(B) the purchaser to sign a written or electronic log attesting to the validity of the information; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A pharmacy or NPLeX retailer may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A pharmacy or NPLeX retailer that in good faith releases information maintained under this subsection is immune from





1 civil liability unless the release constitutes gross negligence or  
 2 intentional, wanton, or willful misconduct.

3 (4) The pharmacy or NPLeX retailer maintains a record of  
 4 information for each sale of a nonprescription product containing  
 5 pseudoephedrine or ephedrine. Required information includes:

6 (A) the name and address of each purchaser;

7 (B) the type of identification presented;

8 (C) the governmental entity that issued the identification;

9 (D) the identification number; ~~and~~

10 (E) the ephedrine or pseudoephedrine product purchased,  
 11 including the number of grams the product contains and the  
 12 date and time of the transaction; **and**

13 **(F) the unique:**

14 **(i) serial number; or**

15 **(ii) other identifying code;**

16 **printed on the individual package that contains the**  
 17 **product by the manufacturer of the individual package as**  
 18 **provided in subdivision (8).**

19 (5) Beginning January 1, 2012, a pharmacy or NPLeX retailer  
 20 shall, except as provided in subdivision (6), before completing a  
 21 sale of an over-the-counter product containing pseudoephedrine  
 22 or ephedrine, electronically submit the required information to the  
 23 National Precursor Log Exchange (NPLeX) administered by the  
 24 National Association of Drug Diversion Investigators (NADDI),  
 25 if the NPLeX system is available to pharmacies or NPLeX  
 26 retailers in the state without a charge for accessing the system.  
 27 The pharmacy or NPLeX retailer may not complete the sale if the  
 28 system generates a stop sale alert.

29 (6) If a pharmacy or NPLeX retailer selling an over-the-counter  
 30 product containing ephedrine or pseudoephedrine experiences  
 31 mechanical or electronic failure of the electronic sales tracking  
 32 system and is unable to comply with the electronic sales tracking  
 33 requirement, the pharmacy or NPLeX retailer shall maintain a  
 34 written log or an alternative electronic recordkeeping mechanism  
 35 until the pharmacy or NPLeX retailer is able to comply with the  
 36 electronic sales tracking requirement.

37 (7) The pharmacy or NPLeX retailer stores the drug behind a  
 38 counter in an area inaccessible to a customer or in a locked  
 39 display case that makes the drug unavailable to a customer  
 40 without the assistance of an employee.

41 **(8) After June 30, 2016, a pharmacy or NPLeX retailer may**  
 42 **not sell a drug that contains the active ingredient of ephedrine**



1       or pseudoephedrine, or both, under this section unless the  
2       individual package that contains the drug has a unique:

3       (A) serial number; or

4       (B) other identifying code;

5       printed on the individual package by the manufacturer of the  
6       individual package.

7       (e) A person may not purchase drugs containing more than

8       ~~(1) three and six-tenths (3.6) grams of ephedrine or~~  
9       ~~pseudoephedrine, or both, on one (1) day;~~

10       ~~(2) seven and two-tenths (7.2) grams of ephedrine or~~  
11       ~~pseudoephedrine, or both, in a thirty (30) day period; or~~

12       ~~(3) sixty-one and two-tenths (61.2) nine and six-tenths (9.6)~~  
13       grams of ephedrine or pseudoephedrine, or both, in a three  
14       hundred sixty-five (365) day period.

15       These limits apply to the total amount of base ephedrine and  
16       pseudoephedrine contained in the products and not to the overall  
17       weight of the products.

18       (f) This subsection only applies to convenience packages. A retailer  
19       may sell convenience packages under this section without complying  
20       with the conditions listed in subsection (d):

21       (1) after June 30, 2013; and

22       (2) before January 1, 2014.

23       A retailer may not sell drugs containing more than sixty (60)  
24       milligrams of ephedrine or pseudoephedrine, or both in any one (1)  
25       transaction. A retailer who sells convenience packages must secure the  
26       convenience packages behind the counter in an area inaccessible to a  
27       customer or in a locked display case that makes the drug unavailable  
28       to a customer without the assistance of an employee. A retailer may not  
29       sell a drug containing ephedrine or pseudoephedrine after December  
30       31, 2013.

31       (g) A retail distributor, wholesaler, or manufacturer shall report a  
32       suspicious order to the state police department in writing.

33       (h) Not later than three (3) days after the discovery of an unusual  
34       theft at a particular retail store, the pharmacy or NPLeX retailer shall  
35       report the unusual theft to the state police department in writing. If  
36       three (3) unusual thefts occur in a thirty (30) day period at a particular  
37       pharmacy or NPLeX retailer, the pharmacy or NPLeX retailer shall, for  
38       at least one hundred eighty (180) days after the date of the last unusual  
39       theft, locate all drugs containing ephedrine or pseudoephedrine at that  
40       particular pharmacy or NPLeX retailer behind a counter in an area  
41       inaccessible to a customer or in a locked display case that makes the  
42       drug unavailable to customers without the assistance of an employee.



1 (i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance  
2 after February 1, 2005, that is more stringent than this section.

3 (j) A person who knowingly or intentionally violates this section  
4 commits a Class C misdemeanor. However, the offense is a Class A  
5 misdemeanor if the person has a prior unrelated conviction under this  
6 section.

7 (k) A pharmacy or NPLeX retailer that uses the electronic sales  
8 tracking system in accordance with this section is immune from civil  
9 liability for any act or omission committed in carrying out the duties  
10 required by this section, unless the act or omission was due to  
11 negligence, recklessness, or deliberate or wanton misconduct. A  
12 pharmacy or NPLeX retailer is immune from liability to a third party  
13 unless the pharmacy or NPLeX retailer has violated a provision of this  
14 section and the third party brings an action based on the pharmacy's or  
15 NPLeX retailer's violation of this section.

16 (l) The following requirements apply to the NPLeX:

17 (1) Information contained in the NPLeX may be shared only with  
18 law enforcement officials.

19 (2) A law enforcement official may access Indiana transaction  
20 information maintained in the NPLeX for investigative purposes.

21 (3) NADDI may not modify sales transaction data that is shared  
22 with law enforcement officials.

23 (4) At least one (1) time per week, NADDI shall forward Indiana  
24 data contained in the NPLeX, including data concerning a  
25 transaction that could not be completed due to the issuance of a  
26 stop sale alert, to the state police department.

